

3 It is submitted that the amended claims are fairly based on the specification as  
filed and do not introduce any new matter not disclosed in the original specification.

4 Applicant includes with this response a set of un annotated claims with  
5 amendments implemented.

#### REMARKS

##### Claim Objections

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The revised claims address the objection to claims 37 - 52 .

The Applicant has accepted the examiner's invitation to rewrite claims 37 - 52 in  
independent form including limitations of the base claims and intervening claims.  
Applicant notes that claim 53 now claim 71 is allowable.

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##### Claim Rejections -35 USC § 102

Claims 27 - 36 stand rejected under 35 U.S.C. 102(b) as being  
anticipated by Miller (US Pat. No. 5,501,646). In response to this objection the applicant  
20 has revised the claims so that claims 37-52 have been rewritten in independent form.

##### Miller 5,501,646

25 This citation discloses a jaw and neck muscle exercise apparatus which includes a spring  
loaded support arm attached to a soft chin support on one end and to a chest plate on the  
other end. The chest plate is strapped around the chest bone/collar bone area and the back  
of the neck by a collar strap. The lower jaw may then be exercised by opening the mouth  
or lowering the entire head against the resistance of the spring. This device is for toning  
the face, chin and neck eliminating fatness below the chin and wrinkles. It is submitted  
30 that the Applicant's device as disclosed in the amended claims has not only the limitation  
that it is used for arm exercises but features of structure which it is submitted distinguish

from the cited art. More specifically the Applicant's invention is limited to a device for the exercise of the musculature of the upper arm, having telescopically operating inner and outer tubular elements, each with end closure means at their outer ends and an inwardly projecting collar at its inward open end of the outer tubular element.

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Claim Rejections -35 USC § 103

Claims 27 – 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Miller.

10 Miller is silent with respect to the overall length of the device. The length of the applicants device is significant in that it must be of a length which allows the exercise device to be used between the wrists and shoulder of one arm.. In other word the device is relatively short in comparison to the prior art. .

15 In view of the forgoing the applicant believes that the claim as amended are in condition for allowance an outcome which is earnestly solicited.

Respectfully Submitted.

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DANNY ADCOCK

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